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Distributive Motives and Paternalistic Doctrine in Islamic Inheritance Law with Special Reference to Compulsory Wills

Setiyowati Setiyowati
Universitas 17 Agustus 1945 Semarang, Indonesia
setiyowati.untag@gmail.com

Siti Maryam
Universitas 17 Agustus 1945 Semarang, Indonesia

Haitham Abdulwahhab Mohammed B.
School of Law, Universiti Utara Malaysia, Kedah, Malaysia

Badr Guelida
Department of Private Law, Ibn Zohr School of Law, Agadir, Morocco

Abstract

This research examines legal development and normative provisions regarding compulsory wills in Indonesia and Malaysia. In Indonesia the rules regarding wills have been contained in Islamic Law Compilation (*Kompilasi Hukum Islam*/KHI) as contained in Presidential Instruction No. 1 of 1991 namely in Chapter V Articles 194 to 209 and in books of Islamic jurisprudence. In Malaysia, provisions regarding compulsory wills are regulated in the Muslim Wills Act 1961 (Wills Act 1959) issued by the Malaysian government. Under this law, the compulsory will can be given to children and grandchildren, parents, and close relatives who do not receive an inheritance, with the condition that the compulsory beneficiary may not receive more than one-third of the total inheritance left. The implementation of compulsory wills in Indonesia and Malaysia has both similarities and differences, in terms of similarities there are three things, namely definition, content/amount as well as purpose and benefits. While the difference is that there are three things, namely the recipient of the compulsory will, the source of law and the legal position. Furthermore, in determining the compulsory will, Indonesia refers to *maslaha mursala,* while in Malaysia it refers to the views of *Ibn Hazm* from the *azh-Zhahiri* school which requires wills to relatives who do not receive inheritance either because they are *hijab* or obstructed in Islamic inheritance law. In addition to what has been regulated in the regulations of each country, the compulsory will has experienced an expansion in its granting.

Keywords: Inheritance Rights, Compulsory Wills, Islamic Law, Indonesia, Malaysia.

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Abstrak

Penelitian ini mengkaji perkembangan hukum dan ketentuan normatif mengenai wasiat wajibah di Indonesia dan Malaysia. Di Indonesia aturan mengenai wasiat telah dimuat dalam Kompilasi Hukum Islam (KHI) sebagaimana termuat dalam Inpres No. 1 Tahun 1991 yaitu pada Bab V Pasal 194 sampai dengan Pasal 209 dan dalam kitab-kitab fikih. Di Malaysia, ketentuan mengenai wasiat wajibah diatur dalam Undang-Undang Wasiat Muslim 1961 (Wills Act 1959) yang dikeluarkan oleh pemerintah Malaysia. Dalam undang-undang ini, wasiat wajibah dapat diberikan kepada anak dan cucu, orang tua, dan kerabat dekat yang tidak menerima warisan, dengan ketentuan penerima wasiat wajibah tidak boleh menerima lebih dari sepertiga total warisan yang ditinggalkan. Pelaksanaan wasiat wajibah di Indonesia dan Malaysia memiliki persamaan dan perbedaan, dari segi persamaan terdapat tiga hal, yaitu definisi, isi/jumlah serta tujuan dan manfaat. Sedangkan perbedaannya terdapat tiga hal yaitu penerima wasiat wajibah, sumber hukum dan kedudukan hukum. Selanjutnya, dalam menentukan penerima wasiat wajibah, Indonesia mengacu pada *maslaha mursalah*, sedangkan di Malaysia mengacu pada pandangan Ibnu Hazm dari mazhab *azh-Zhahiri* yang mewajibkan wasiat kepada kerabat yang tidak mendapat warisan baik karena terhijab maupun terhalang dalam hukum kewarisan Islam. Selain apa yang telah diatur dalam peraturan masing-masing negara, wasiat wajibah mengalami perluasan dalam pemberiannya.

Kata Kunci: Hak Waris, Wasiat Wajibah, Hukum Islam, Indonesia, Malaysia.

Introduction

Compulsory wills in Islamic law refer to the gift of property from the testator to certain heirs that are specifically regulated in the Al-Qur'an or Hadith. Moreover, compulsory wills have a higher priority compared to a normal will, because it is considered an obligation that must be fulfilled by the testator. An example of a compulsory will be the giving of a third of the testator's property to certain heirs who do not get a share in the distribution of inheritance according to Sharia. However, in practice, the implementation of a compulsory will be often difficult to do correctly because it requires expertise and accuracy in calculating the amount of the portion that must be given to the heirs who are entitled to receive it. This is because a will must involve complex calculations related to the portion of the inheritance that must be given to the parties entitled to receive it, especially if there are several heirs entitled to receive the inheritance. Apart from that, in practice there are still differences of opinion among heirs and families regarding the implementation of a compulsory will, especially regarding the amount.[1] This often results in disputes and conflicts between families which can have a negative impact on social and kinship relations among them. Therefore, efforts are needed to increase public understanding and awareness regarding compulsory wills so

[1] Muhammad Daud, Zakiul Fuady, and Raihanah Azahari. "The wajibah will: Alternative wealth transition for individuals who are prevented from attaining their inheritance." *International Journal of Ethics and Systems* 38, no. 1 (2022): 8.

that they can be implemented properly and can avoid conflicts between families. Islamic jurists advise to understand the rules regarding compulsory wills before deciding to make this type of will.

In Indonesia the rules regarding wills have been contained in 1991 Islamic Law Compilation (*Kompilasi Hukum Islam*/KHI) as stated in Presidential Instruction No. 1 of 1991 namely in Chapter V Articles 194 to 209 and in books of *fiqh*. KHI Article 171 letter f states that a will is the gift of an object from the heir to another person or institution which will take effect after the heir dies. Articles 194 to 208 regulate ordinary wills, while Article 209 regulates special wills given to adopted children or adoptive parents. In the realm of Islamic law, a will that binds certain heirs and cannot be violated by them is referred to as a compulsory will. A compulsory will can be made by the testator to give a share of the property to certain heirs who do not receive a share of the inheritance due to certain conditions, such as obstruction due to disability, distant kinship or because they stop being Muslims. A compulsory will be considered a legal obligation that must be fulfilled by the heirs appointed in the will.[2] Unfortunately, KHI does not provide a definition in the general provisions regarding compulsory wills. In theory, a compulsory will be defined as an action taken by a ruler or judge as a state apparatus to force or issue a compulsory will for a person who has died given to a certain person under certain circumstances.[3]

A will whose implementation is not affected or does not depend on the will of the deceased. This will still be done, whether said, or wanted or not by the deceased.[4] Therefore, the implementation of a will does not require proof that the will was spoken, written or willed, but its implementation is based on legal reasons justifying that the will must be carried out. The definition of a compulsory will be regulated in KHI is indeed different from the meaning of a will described earlier. A compulsory will be a will imposed by the ruler or judge as a state apparatus to force or issue a compulsory will for people who have died and given to certain people under certain circumstances. This compulsory will be binding and must be carried out by the heirs even though the heir does not clearly state his will or does not mention this in his will.[5,6] This is done because a will must be considered as a

[2] Ilhami, Haniah. "Development of the regulation related to obligatory bequest (wasiat wajibah) in Indonesian Islamic inheritance law system." *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 27, no. 3 (2015): 559.

[3] Muhammad Daud, Zakiul Fuady, and Raihanah Azahari. "The wajibah will." 10.

[4] Rahman, Md Habibur, Abu Talib Mohammad Monawer, and Noor Mohammad Osmani. "Wasiyyah Wajibah in Islamic Estate Planning: An Analysis." *Jurnal Islam Dan Masyarakat Kontemporari* 21, no. 3 (2020): 76.

[5] Ghul, Z. Hamid, M. H. Yahya, and A. Abdullah. "Wasiyyah (Islamic will) adoption and the barriers in Islamic inheritance distribution among Malaysian Muslims." *International Journal of Humanities Social Sciences and Education* 2, no. 1 (2015): 6.

[6] Reskiani, Anugrah, Dian Furqani Tenrilawa, Aminuddin Aminuddin, and Rahman Subha. "Reform Methods of Islamic Inheritance Law in Indonesia in Jurisprudence." *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (2022): 43.

form of protection for the public interest or people in need. For example, Article 209 of KHI states that if someone has adopted an adopted child, it is compulsory for the heir to give a will to the adopted child. Likewise, if someone has taken care of adoptive parents, it is compulsory for the heir to give a will to the adoptive parents. However, even though a compulsory will can be carried out without the knowledge of the heir and given to a certain person who has been mentioned in the KHI, the implementation of this compulsory will must still fulfill the conditions set out in the KHI and must not conflict with the principles of applicable Islamic law.

The KHI in Indonesia has its own provisions regarding compulsory wills and the arrangements are different from other Muslim countries. The KHI concept is to provide limited compulsory wills to adopted children and adoptive parents. Meanwhile, in countries such as Egypt, Syria, Morocco and Tunisia, compulsory wills are enacted to address the problem of grandchildren whose parents died before their grandparents.[7] In this case, a compulsory will can be given by the testator to provide a share of the inheritance to grandchildren who will not receive the inheritance due to the death of their parents before the death of the testator. Although the arrangements for a compulsory will vary between Islamic countries, the basic principles of Islamic law remain a reference in its implementation. The principles of Islamic law such as justice, equality and legal certainty are still the basis for the arrangement of compulsory wills in Islamic countries.[8] Even though there are differences in terms of who is entitled to receive a compulsory will, basically all these countries want to protect the rights of heirs who are entitled to receive inheritance. In addition, there is also the principle that a compulsory will can only be made for a certain part of the inheritance and may not harm the heirs who are legally entitled to receive the inheritance. Islamic law has the same principles throughout the world and is used as a guide in compiling laws that apply in Islamic countries.[9,10]

Although normatively this has been stipulated, in its development it turns out that wills must be given to parties other than adopted children and adoptive parents. Some jurisprudence of the Indonesian Supreme Court has stipulated that a compulsory will can be granted to non-Muslim heirs if the heir has a family relationship with them or if the heir has strong emotional or social ties with them. This is stated in the Supreme Court decision No. 619 K/Pdt/2015, which allows a

[7] Carroll, Lucy. "The Pakistan Federal Shariat Court, Section 4 of the Muslim Family Laws Ordinance, and the Orphaned Grandchild." *Islamic Law and Society* 9, no. 1 (2002): 74.

[8] Suprihatin, Suprihatin, and Nurrohman Nurrohman. "The meeting point of the development of formal Islamic inheritance law In Indonesia with international law." *Ulûmuna: Jurnal Studi Keislaman* 6, no. 2 (2020): 223.

[9] Vikør, Knut S. *Between God and the sultan: A history of Islamic law*. Oxford: Oxford University Press, 2005.

[10] Bowen, John R. *Islam, law, and equality in Indonesia: An anthropology of public reasoning*. Cambridge: Cambridge University Press, 2003.

Muslim heir to give a compulsory will to his Christian son.[11] However, in practice, giving a compulsory will to non-Muslim heirs is still a rare thing and still requires clear and strict regulations. In general, the principles of Islamic law regarding inheritance distribution are based on blood relations and religion.[12,13] Therefore, giving a compulsory will to non-Muslim heirs is still a controversial matter and requires clear and strict regulations. In some countries, such as Egypt, giving wills to non-Muslim heirs is expressly prohibited. Meanwhile, in other countries, such as Indonesia, the provisions regarding compulsory wills still do not clearly regulate this. This is to avoid misuse or violation of the rights of legal heirs.

Apart from Indonesia, a neighboring country, namely Malaysia, also regulates this compulsory will, where Malaysia is a country, whose population is predominantly Muslim and adheres to the Shafi'i school of thought, as is the case in Indonesia, the arrangements for compulsory wills are different from those regulated in Indonesia.[14] In the applicable law in Malaysia, it is only limited to grandchildren who do not get a share of the inheritance because they wear the headscarf. The State of Selangor was the first to implement the Sharia Law Administrative Law in Malaysia. Among the laws that can be realized is the Enforcement of Islamic Wills. These laws have been formulated and enforced by the government of the country. The draft law was formulated by the government through the Selangor State Sharia Judiciary Office (*Jabatan Kehakiman Syariah Selangor*/JAKESS), then submitted to a parliamentary meeting to be discussed with the people's representatives. After being ratified and approved by DiRaja, it is enacted and put into effect. Selangor Muslim State Testament No. 4 of 1999 was promulgated on September 30, 1999, and entered into force on July 1, 2004.[15] Article 27 stipulates that the grandson of a son whose parents died first is given a compulsory will with a maximum amount of 1/3 of the inheritance. At least adjusted to the portion that will be received by the father if the father is still alive, if it does not exceed 1/3 of the heir's assets. From the explanation above, this study further examines the provisions regarding compulsory wills in Indonesia and Malaysia.

Compulsory Wills and Unequal Bargaining Power in Indonesia and Malaysia

[11] Ilhami, Haniah. "Development of the regulation." 560.

[12] Yusuf, Andi Asdar. "Controversy of Islamic law on the distribution of inheritance to the heirs of different religion." *HUNAFA: Jurnal Studia Islamika* 14, no. 2 (2017): 379.

[13] Anshori, Abdul Ghofur. "Sources and Legal Principles of Islamic Inheritance* Dynamics in Indonesia." *Journal Equity of Law and Governance* 2, no. 2 (2022): 159.

[14] Welas, Ninuk Tri. "Comparative Study of Development between Islamic Inheritance Law According to Compilation of Islamic Law (KHI) & Faroid Science." *Sultan Agung Notary Law Review* 3, no. 1 (2021): 169.

[15] Faruki, Kemal. "Orphaned Grandchildren in Islamic Succession Law: A Comparison of Modern Muslim Solutions." *Islamic Studies* 4, no. 3 (1965): 259.

Legislation in Muslim countries has been experiencing legal reform in some extent in their Western-law model and adoption, while some has rigid regulation regarding sharia application. There are also those who adhere to the first reform model, such as Turkey, Albania, Tanzania, the Muslim minority of the Philippines and the ex-Soviet Union countries.[16,17] Meanwhile, some countries establish sharia as the main source of legislation such as those in the Arabian Peninsula region and several African countries. This includes Saudi Arabia, Yemen, Kuwait, Pakistan, Mali, Mauritania, Nigeria, Senegal, Somalia and Afghanistan. Some countries with Muslim as the majority adhere to the renewal method and practice in family law including countries in Southeast Asia, such as Indonesia, Malaysia and Brunei Darussalam. There are also Singapore and Sri Lanka who are Muslim minorities. This third form is also reflected in other countries such as Sudan, Jordan, Syria, Tunisia, Morocco, Algeria, Iraq, Iran and Pakistan.[18] In Indonesia and Malaysia, both use the Shafi'i school of thought as a source of views of the school of law which is used as a guide in formulating laws and regulations. Meanwhile, Iraq uses the Hanafi and Shiite schools of thought.

According to Mahmood[19], reform and practice of family law in Islamic countries can be seen in several forms. The first is a country that principally uses classical legal products as its positive law, without making changes or codification, is called a country that adheres to a system of customary law or traditional law. The second is Muslim countries completely abandoned and replaced the classical family law with modern law which legally applies to all citizens. The third is the countries that generally have reformed classical family law through laws and regulations that use the views of many schools of *fiqh*, or also through state institutional policies.

Indonesia and Malaysia have family law systems that incorporate views from various *fiqh* lines. In Indonesia, this is reflected in laws and regulations that refer to various sources of Islamic law, such as the Al-Qur'an, hadith, and the agreements of the scholars. Meanwhile in Malaysia, the family law system is regulated by the Islamic Family Law which is based on the views of Shafi'i jurisprudence, but taking into account the opinions of scholars from various schools of law. This reflects efforts to strengthen harmony between Islamic law and national law in the context of an increasingly complex and multicultural modern state.[20]

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[16] Ghofur, Abdul, and Sulistiyono Sulistiyono. "Peran ulama dalam legislasi modern hukum Islam." *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 49, no. 2 (2015): 268.

[17] Eleanora, Fransiska Novita, and Andang Sari. "Distribution of Inheritance Based on The Principle of Justice According to National Law." *Varia Justicia* 15, no. 1 (2019): 11.

[18] Anderson, James Norman Dalrymple, ed. *Family law in Asia and Africa*. London: Routledge, 2021.

[19] Mahmood, Syed Tahir. *Family law reform in the Muslim world*. Delhi: The Indian Law Institute, 1972.

[20] Naim, Ngainun. "Islamic Jurisprudence for Diversity: From Theological-Normative Reason to Progressive Contextual Reasoning." *Al-'Adalah* 15, no. 1 (2019): 58.

In the context of similarity, it seems that in terms of understanding the three countries are not explained in writing in their regulations, but if one pays attention to the article on compulsory wills it can be concluded that compulsory wills are given without having to make a will first but based on rules made by the authorities or judges and given to parties under certain circumstances.[21] Nonetheless, there are some differences in the arrangement of compulsory wills among the three countries. For example, in Egypt, a compulsory will can be given to the descendants of the heir's daughter, whereas in Indonesia and Malaysia, a compulsory will can only be given to adopted children and adoptive parents. In addition, even though Indonesia and Malaysia reformed their family laws, there are still differences in the arrangement of compulsory wills.[22] In Indonesia, wills must be regulated in Islamic Law Compilation (*Kompilasi Hukum Islam*/KHI), while in Malaysia, wills must be regulated in the Islamic Heritage Act.[23] These differences indicate that although there are some similarities in the meaning of a compulsory will between the three countries, there are also differences in the arrangements and this can affect its implementation in each country.

As for the level or amount that must be given to the party entitled to receive a compulsory will, the three countries have in common that the compulsory will give cannot be more than 1/3 of the inheritance, this is based on the maximum level of an ordinary will. This is also stated in Article 202 paragraph (1) KHI Indonesia, which states that the compulsory will may not exceed one-third of the total inheritance.[24] Similarly, in Malaysia, the same limitation is also contained in the Heritage and Administrative Act 1967, and in Tunisia the same limitation is contained in article 122 of the Tunisian Family Code. This limitation is intended to ensure that the granting of a compulsory will does not harm the rights of other heirs and minimizes disputes over the distribution of inherited assets. Compulsory wills regulated by the three countries in their regulations have the aim and benefit of providing benefits and welfare for close relatives who in their texts are not given an appropriate share or adoptive parents and adopted children who may have contributed a lot to the heirs but are not given a share in provisions of Islamic inheritance law, because with the enactment of this compulsory will, it will provide a share of the inheritance to the party who is prevented from receiving the inheritance.[25]

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[21] Alma'amun, Suhaili, et al., "Legislative provisions for waṣiyyah wājibah in Malaysia and Indonesia: to what extent do they differ in practice?." *ISRA International Journal of Islamic Finance* 14, no. 2 (2022): 162.

[22] Abdullah, Muhamad Muizz, Abdul Bari Bin Awang, and Nasrul Hisyam Nor Muhamad. "The Mechanisme of Wisayah In Estate Planning: A Literature Review: Mekanisme Wisayah Dalam Perancangan Harta Pusaka: Sorotan Literatur." *Al-Qanatir: International Journal of Islamic Studies* 20, no. 1 (2020): 25.

[23] Welas, Ninuk Tri. "Comparative Study of Development." 172.

[24] Firdausia, Salsabila. "Hadhanah in The Concept of Compilation of Islamic Law And Law." *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 20, no. 2 (2020): 319.

[25] Eleanora, Fransiska Novita, and Andang Sari. "Distribution of Inheritance." 15.

Then, the similarities in the compulsory will between Indonesia and Malaysia are as follows. Compulsory wills in Indonesia and Malaysia are both given based on regulations made by the authorities or judges, and given to certain parties under certain circumstances. This is different from an ordinary will which is given based on the awareness and will of the testator, and can be given to anyone. In addition, the two countries also have similarities in the maximum limit for granting a compulsory will which may not be more than 1/3 of the inheritance. By contents and amount, the compulsory will may not exceed 1/3 of the total inheritance owned by the testator. This is determined to ensure that the rights of legal heirs are protected and are not harmed by a compulsory will. Lastly, by purpose and benefits, the acts specified that compulsory will be to provide benefits and justice for close relatives who are not given an appropriate share or adoptive parents and adopted children who may have contributed a lot to the heirs but are not given a share in the provisions of Islamic inheritance law. With the enactment of the compulsory will, it will give a share of the inheritance to the party who is prevented from receiving the inheritance. In addition, a compulsory will can also strengthen family relationships and help overcome inheritance conflicts that can arise between heirs.[26]

Examining Paternalistic Doctrine in Compulsory Wills in Indonesia and Malaysia

Malaysia is a federal state, which until now has no family law that applies nationally. As a result, applicable family laws vary from state to state. Efforts to standardize Islamic family law have been made, but not all countries are willing to accept such uniformity efforts.[27,28] Nonetheless, Malaysia has adopted several legal products from classical *fiqh* as its positive law. For example, in terms of inheritance, Malaysia uses the same inheritance distribution method as used in classical *fiqh*, namely the Faraid system or Inheritance Division. In terms of compulsory wills, Malaysia also recognizes the existence of this concept and is regulated in the Islamic Heritage Law 1997.[29] The terms and conditions for a compulsory will in Malaysia are similar to those regulated in Indonesia, namely that a will must be given to adoptive parents and adopted children and may not exceed 1/3 of the inheritance.

[26] Zaelani, Abdul Qodir, Syamsul Hilal, and Abdul Hanif. "Joint Property Inheritance Distribution Practiced by Community of Bandar Lampung." *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 5, no. 1 (2022).

[27] Horowitz, Donald L. "The Qur'an and the common law: Islamic law reform and the theory of legal change." *The American Journal of Comparative Law* 42, no. 2 (1994): 238.

[28] Buskens, Léon. "Recent debates on family law reform in Morocco: Islamic law as politics in an emerging public sphere." *Islamic law and society* 10, no. 1 (2003): 79.

[29] Noor, Noraini M., and Chan-Hoong Leong. "Multiculturalism in Malaysia and Singapore: contesting models." *International Journal of Intercultural Relations* 37, no. 6 (2013): 717.

The Dutch implemented a Continental legal system in Indonesia during their colonial period, which is still in effect today. The Continental legal system, or civil law, has its roots in Roman law and focuses on written rules and legal doctrines made by jurists and judges.[30] The UK, on the other hand, applies a common law legal system in Brunei Darussalam, Malaysia and Singapore.[31] The common law system is rooted in the decisions of judges in previous cases and the common law principles that develop from those customs and decisions. The common law legal system is also known as case law. Indonesia is a country that adheres to an integrated legal system in the form of laws that apply. Previously, Indonesia was once a Dutch colony that implemented the Continental legal system. However, after becoming independent, Indonesia created a new constitution and legal system that combined various sources of law, including Islamic law. In its development, the application of Islamic law in Indonesia underwent changes that were influenced by various factors, including the influence of the colonial legal system that was applied previously.[32]

The differences in the provisions of a compulsory will in Indonesia and Malaysia are in terms of the party entitled to receive the compulsory will, the source of the compulsory will and the legal status of the regulations of the three countries. In Indonesia, parties entitled to receive a will must consist of parents, children and wife. Whereas in Malaysia, the parties entitled to receive a will must consist of parents, children, and husband/wife. Then in Indonesia, compulsory wills are regulated in the Islamic Law Compilation (*Kompilasi Hukum Islam*/KHI) articles 163-166. Whereas in Malaysia, wills must be regulated in the 1997 Islamic Heritage Act. In Indonesia itself, KHI is part of national positive law and has the same legal force as other statutory regulations. Whereas in Malaysia, the 1997 Islamic Heritage Deed is also part of the national positive law and has the same legal force as other laws and regulations.[33,34,35]

In Indonesia, compulsory will arrangements are regulated in KHI Article 209 which states that adoptive parents who do not receive a will are given a compulsory will from the assets of their adopted children and adopted children who do not receive a will are given a compulsory will. will from the assets of his

[30] Mousourakis, George. *Roman law and the origins of the civil law tradition*. Berlin: Springer, 2015.

[31] Black, E. Ann, and Gary F. Bell, eds. *Law and legal institutions of Asia: Traditions, adaptations and innovations*. Cambridge: Cambridge university press, 2011.

[32] von Benda-Beckmannn, Franz, and Keebet von Benda-Beckmannn. "The dynamics of change and continuity in plural legal orders." *The Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006): 15.

[33] Mustarsidin, Ahmad, and Akhmad Khisni. "Pregnancy Married in The Perspective of Four Madzhab and Compilation of Islamic Law (KHI)." *Jurnal Daulat Hukum* 1, no. 3 (2018): 701.

[34] Nabilah, Wardatun, Deri Rizal, and Arifki Budia Warman. "Persecutory and Defamation as Barriers to Inheritance (Review of Maqāṣid Shari'ah in a Compilation of Islamic Law)." *Al Hurriyah: Jurnal Hukum Islam* 6, no. 1 (2021): 56.

[35] Djawas, Mursyid et al., "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law." *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022): 209.

adoptive parents.[36] In Malaysia, only the states of Selangor, Melaka and Negeri Sembilan provide for compulsory wills in law, provided for in Section 27 of the Islamic People's Agreement, which grants only male and female grandsons whose fathers die first, while in Iraq it is regulated in Article 74 of the Personal Status Act and amendment No. 188 of 1959 which was renewed by amendment law no. 72 of 1979 stipulates that it must be given to grandsons and daughters of male and female offspring whose parents died before their grandchildren.[37]

The source of law used in Indonesia in establishing the concept of a compulsory will is different from that used in Malaysia. In Indonesia, the granting of rights to adopted children and adoptive parents is based on the ijtihad of Indonesian scholars by not ignoring the customs or habits of the community in adopting children and referring to *maslaha mursala*. In contrast to Malaysia, which gives rights to grandchildren based on the opinion of the ulema, namely Ibnu Hazm, which requires giving wills to relatives who do not receive inheritance. The legal status of regulations regarding compulsory wills also differs between Indonesia and Malaysia. In Indonesia, wills must be regulated in the Civil Code (*Kitab Undang-Undang Hukum Perdata*/KUHPerdata) Articles 177 and Article 180. Meanwhile in Malaysia, wills must be regulated in the Islamic Family Law which applies in every state that has jurisdiction over Islamic family law.[38] Apart from these differences, there are also differences in the amount or amount that can be given as a compulsory will. In Indonesia, a compulsory will cannot exceed one-third of the inheritance, while in Malaysia, a compulsory will cannot exceed two-thirds of the inheritance.

KHI which is a guideline for judges in deciding cases in the field of family law, it also regulates wills, when viewed in terms of statutory status, KHI is not included in the statutory hierarchy because it is only stipulated through presidential instructions, so KHI is not binding (but KHI is material law and serves as a guideline for judges in deciding cases). Meanwhile, KHI or the Book of Islamic Law only regulates issues of Islamic law and has not been officially recognized as binding legislation.[39] KHI itself functions as a guide for judges in deciding cases in the field of Islamic family law, but does not have direct binding legal force. In Malaysia, wills are regulated in the Imposition of Wages for Muslims (Selangor, Melaka and Sembilan Countries). In addition, in Malaysia, wills are also regulated in several other laws such as the Inheritance Act 1959 (Inheritance Act 1959) and the Islamic Inheritance Act 1961 (Administration of Muslim Law Act 1961), depending on the religion and ethnicity of the community concerned. Whereas in

[36] Mustarsidin, Ahmad, and Akhmad Khisni. "Pregnancy Married." 702.

[37] Alma'amun, Suhaili, et al., "Legislative provisions for waṣiyyah wājibah." 165.

[38] Afkarina, Izzah. "Legal Power of Testament Act as Authentic Deed in The Indonesian and Malaysian Law System." *Indonesian Journal of Law and Islamic Law* 4, no. 2 (2022): 338.

[39] Welas, Ninuk Tri. "Comparative Study of Development." 173.

Iraq, will law be regulated in the Civil Law which is generally enforced.[40] The differences between compulsory wills in Indonesia and Malaysia are as follows.

By recipients of compulsory wills, in Indonesia, adoptive children and adoptive parents who do not receive a will, while in Malaysia, grandchildren of sons and daughters of sons whose fathers died first. By source of law, Indonesia adopted the concept of a compulsory will in Indonesia as the result of the ijtihad of Indonesian Ulama which refers to *maslaha mursala,* while in Malaysia, the concept of compulsory will in Malaysia and refers to the views of Ibn Hazm. By legal position, Indonesia's KHI was established through a presidential instruction which is non-binding, while in Malaysia, the Endowments of wills for Muslims (Selangor, Melaka and Sembilan countries) shall be made into law and are binding.

Distributive Motives of Compulsory Wills

A compulsory will be a will give by an heir to a relative who does not receive a share of the inheritance due to provisions stipulated in Islamic law. This usually occurs if the relative is prevented from receiving a share of the inheritance due to an illegitimate family relationship or because there are other factors that prevent the relative from being considered a legal heir. This compulsory will aim to give inheritance rights to relatives who do not receive a proper share of the inheritance according to Islamic law.[41] For example, inheriting a non-Muslim father and mother, because religious differences are a barrier for someone to get an inheritance. Then grandchildren who are prevented from obtaining inheritance rights because of the presence of their uncles, and also adopted children or adoptive parents who are not included in the heirs but whose services and existence are very meritorious for the heirs.[42] In addition, there are also situations where a person passes property to a close friend or someone who is considered a family member, but who is actually not related in the family. In such situations, a compulsory will may also be applied to ensure their right to receive a share of the inheritance.

According to the majority of scholars, it is sunnah to make a will to their legal heirs.[43] A will be not compulsory for a person unless there are good rights addressed to Allah and to fellow servants such as fidyah, zakat or debt. In addition, a person can give a will for other purposes that do not conflict with Islamic law. However, a compulsory will can only be made if there are relatives who cannot receive a share of the inheritance according to sharia provisions, and the will may

[40] Noor, Noraini M., and Chan-Hoong Leong. "Multiculturalism in Malaysia and Singapore." 719.

[41] Muhammad Daud, Zakiul Fuady, and Raihanah Azahari. "The wajibah will." 11.

[42] Noviarni, Dewi. "Kewarisan Dalam Hukum Islam di Indonesia." *'Aainul Haq: Jurnal Hukum Keluarga Islam* 1, no. 1 (2021): 66.

[43] Duderija, Adis. "Evolution in the Concept of Sunnah during the First Four Generations of Muslims in Relation to the Development of the Concept of an Authentic Ḥadīth as based on Recent Western Scholarship." *Arab Law Quarterly* 26, no. 4 (2012): 398.

not exceed one-third of all the assets left behind.[44,45] According to some *fiqh* scholars such as Ibn Hazm azh-Zhahiri, ath-Tabari and Abu Bakar bin Abdul Aziz from the Hambali group, are of the opinion that making a will to his legal heirs is a debt obligation and fulfillment for both parents and relatives who cannot inherit. because it is blocked it cannot inherit or because something is blocking it. In their view, the compulsory will must be fulfilled because it is the legal right of the heirs who are prevented from getting a share of the inheritance. However, this view is not generally accepted in other *fiqh* schools.[46]

Ibn Hazm's opinion regarding the compulsory will is indeed different from the opinion of the majority of scholars. Ibn Hazm is of the opinion that a compulsory will relates to relatives who are not entitled to inherit because they are obstructed or not recognized in the inheritance for certain reasons. Meanwhile, according to the opinion of most scholars, including in the Shafi'i School, a will is compulsory related to the fulfillment of religious obligations such as debt, zakat, and so on. However, Ibn Hazm's opinion is also respected as a valid opinion among scholars and is seen as another option for people who want to make a compulsory will. Opinions regarding this compulsory will were used as the basis for Egyptian legislation which was later also adopted by several Muslim countries, and this will be officially called *al-wasiyyah al-wajibah* (compulsory will), based on Egyptian Law Number 71 of 1946 to be more precise in Article 76 which states.[47] The Article specified that if the heir (*al-mayyit*) does not make a will for the offspring of a child who has died before him (the heir), or died with him, in the amount that the child should receive from the inheritance, then his descendants will receive that portion through a will (must) within the limits one third of the assets provided that: (a) the offspring do not receive an inheritance and (b) the deceased (heir) has never given assets in other ways in the amount of his shares. If he has been given but less than the share he should have received, then the deficiency is considered as a compulsory will.

In several books of Islamic law which are used as references by Egyptian scholars, including the book *Al-Majmu Syarh Al-Muhadzdzab* by Imam An-Nawawi, it is stated that a compulsory will is intended for heirs who do not receive inheritance due to obstacles, such as worms, disputes, or because they have no

[44] Musa, Aisha Y. "Al-Shāfi'ī, the Ḥadīth, and the Concept of the Duality of Revelation." *Islamic Studies* (2007): 172.

[45] Dutton, Yasin. "ʿAmal V. ḥadīth in Islamic Law: The Case of Sadl Al-Yadayn (Holding One's Hands by One's Sides) when Doing the Prayer." *Islamic Law and Society* 3, no. 1 (1996): 19.

[46] Pantamar, Hendrik, and Rahma Amir. "Tinjauan Hukum Islam Terhadap Praktik Kewarisan di Desa Pattangnga Kecamatan Bola Kabupaten Wajo." *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 2, no. 2 (2021): 272.

[47] Arthos, Saed, Muhammad Iqbal, and Sukri Sukri. "Analytical Study on Egyptian Inheritance Law Reform (Faraidh)." *Jurnal Akta* 8, no. 4 (2021): 209.

inheritance rights under Islamic law[48]. However, related to arrangements regarding the inheritance of property in Egypt, Article 60 of the Egyptian Law Number 77 of 1943 states that when the heir dies, the assets left behind will be divided in accordance with the provisions of Islamic law, where the son will receive twice the share of daughters, and husbands get a quarter of the wife's property if the wife dies first.[49,50] For families who are farther from the first degree, the distribution is carried out based on certain calculations.

Ibn Hazm's opinion which stated that compulsory wills related to relatives who were not entitled to inherit because they were veiled or obstructed was then used as the basis for the establishment of the Egyptian Law Number 71 of 1946 concerning compulsory wills. This is done because of the social needs of the Egyptian people who are experiencing problems related to orphans who live in poverty because they do not get a share of the inheritance because they are hindered by their father's siblings who are still alive. With a compulsory will, those who are obstructed can still receive their right to inherit.[51] Many Muslim countries have adopted provisions on compulsory wills to fulfill family rights which are prevented from inheriting for various reasons. This is done to meet the social needs of the community and pay attention to the rights of families who cannot receive inheritance for certain reasons. In Indonesia, this provision is regulated in the Book of Procedural Laws or Islamic Law Compilation (*Kompilasi Hukum Islam*/KHI) while in Malaysia it is regulated in the Ratification of Muslim Wills and in Iraq it is regulated in the Personal Status Law and amendment No. 188 of 1959.

From the previous explanation, vertically the following comparisons can be drawn: First, the purpose of a will according to the Qur'an in surah al-Baqarah verse 180 which is compulsory for you if there are signs of death, then make a will for your parents and your close relatives who *ma'ruf* is compulsory for those who are pious. The kin in question were defined as close relatives, flesh and blood, family, relatives, offspring from the same parent produced from different gametes.[52] Of the two countries, Indonesia is different from Malaysia, in giving a compulsory will to adopted children and adoptive parents who both have spiritual and non-blood relations, while in Malaysia it is given to children and grandchildren who still have blood relations with the heirs.

Second, the compulsory wills are the opinion of Ibn Hazm who states that a compulsory will regarding relatives whose inheritance rights are hindered,

[48] Fahmi, Labib. "Hermeneutika Emillio Betti dan Aplikasinya dalam Menafsirkan Sistem Kewarisan 2: 1 pada Surat an-Nisa Ayat 11." *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 2, no. 1 (2018): 148.

[49] El Chazli, Karim. "Recent Developments in Egyptian Family and Inheritance Law." *Yearbook of Islamic and Middle Eastern Law Online* 21, no. 1 (2022): 119.

[50] Abdullah, Mohamad Asmadi. "The Applicability of the Usul Al-Fiqh Principle" Istishab" to the Presumption of Death of a Missing Person in Islamic Law of Succession and Malaysian Law." *IIUMLJ* 18 (2010): 324.

[51] Afkarina, Izzah. "Legal Power of Testament Act." 341.

[52] Djawas, Mursyid et al., "The Construction of Islamic Inheritance Law." 211.

whereas according to the majority of scholars, a compulsory will relate to obligations in terms of *ubudiyya* (worship) such as zakat or *fidya*. So that there is a difference of opinion regarding the compulsory will (*wasiya*) among *fiqh* scholars. In Indonesia, which is dominated by the Shafi'i school, in formulating the concept of will it is mandatory to refer to *maslaha mursala*.[53] This shows that in formulating a compulsory will, Indonesia has used a new interpretation of existing texts to meet the needs of society. Malaysia, which is dominated by the Shafi'i school, in formulating the concept of wills must refer to the views of Ibn Hazm from the azh-Zhahiri schools, thus the Malaysian state combines several schools or takes views from schools other than these schools. dominate.[54]

Hierarchically, the *Enakmen* in Malaysia has a stronger position because it is part of the binding law in every state in Malaysia, while the KHI in Indonesia is only a presidential instruction which is not directly binding.[55] Therefore, from a juridical perspective, the *Enakmen* in Malaysia has higher authority in resolving issues of Muslim wills than the KHI in Indonesia. However, these two laws have the same goal, to regulate the issue of wills and inheritance rights for Muslims. The main regulation in Indonesia was KHI, while in Malaysia, the main legal binding was the Enactment of Wills of Muslims (Selangor, Melaka and Negeri Sembilan). In terms of the provisions of the compulsory will, Indonesia's regulations specified adoptive children and adoptive parents, while Malaysia specified grandsons of both sons and daughters from the first generation of male lineage. This was also comparable in terms of amount, in which Indonesia determines the part of maximum 1/3, while Malaysia regulated the same as the part that their parents should receive if alive, by maximum 1/3.

From the description, it can be seen that the arrangement of compulsory wills in Indonesia is very different from the others, this is a revolutionary breakthrough that inevitably ignores the established inheritance principle, namely blood relations is a legal requirement for the distribution of inheritance and strongly opposes the school of thought. Mandatory testament arrangements in Indonesia do not completely ignore the established inheritance principle. Even though the principle of blood relations is a legal requirement for the distribution of inheritance, KHI also provides space for heirs to issue a compulsory will that is recognized as valid by positive law.[56,57] This is in line with the principles of Islamic law which provide flexibility for property owners to give compulsory wills to people who are deemed worthy and entitled to receive them. In this regard, the arrangement of compulsory wills in Indonesia can be considered as a

[53] Musa, Aisha Y. "Al-Shāfi'ī, the Ḥadīth." 167.

[54] Abdullah, Muhamad Muizz, Abdul Bari Bin Awang, and Nasrul Hisyam Nor Muhamad. "The Mechanisme of Wisayah." 27.

[55] Alma'amun, Suhaili et al., "Legislative provisions for waṣiyyah wājibah." 169.

[56] Noor, Noraini M., and Chan-Hoong Leong. "Multiculturalism in Malaysia and Singapore." 722.

[57] Firdausia, Salsabila. "Hadhanah in The Concept of Compilation." 320.

revolutionary breakthrough that combines the principles of Islamic law with the social needs of modern society. As a country where the majority of the population is Muslim, compulsory will arrangements in Indonesia also reflect recognition of the existence and importance of Islamic legal principles in people's lives.[58]

In several countries, such as Malaysia, there is still a patriarchal view that men have a higher position than women in terms of inheritance.[59] This is reflected in will law in Malaysia which stipulates that sons have higher rights in receiving inheritance than daughters. However, in recent years, these countries have begun to adopt a more inclusive and equal view of men and women in terms of inheritance rights.[60,61] For example, in 2018, Malaysia passed an amendment to the Islamic Heritage Act which gave equal rights to boys and girls in terms of receiving inheritance. Indonesia gives the right to adopted children and adoptive parents to receive a compulsory will, while in Malaysia and Iraq this right is given to grandchildren.[62] However, keep in mind that grandchildren in Indonesia can also receive inheritance through surrogate heirs regulated in KHI Article 185, although this is different from the provisions in Malaysia and Iraq. This difference may be caused by differences in customs and traditions in society as well as different interpretations of Islamic religious teachings. There is an expansion of the target of a compulsory will. In terms of the expansion of compulsory wills, Indonesia expanded the rules to non-Muslim heirs, stepson, children who are not registered by the authorized official and biological child. Meanwhile, Malaysia regulated grandsons of sons and daughters from the male and female lineage down. Moreover, in terms of compulsory will arrangement, Indonesia has positioned some jurisprudence in this matter, including Decision of National Meeting of MA-RI Commission II on Religious Courts dated 31 October 2012 and the Decision of the Constitutional Court Number 46/PUU-VIII/2010 dated 17 February 2012 in conjunction with MUI Fatwa Number 11 of 2012 and Decree of the Supreme Court General Meeting of Commission II on Religious Courts dated 31 October 2012. Meanwhile, Malaysia adopted the 83rd Fatwa of the Bureau of Justice Fatwa of the National Assembly for Indonesian Islamic Religion as one of jurisprudences in this matter.

Conclusion

Some main points can be drawn from the analysis that compulsory wills in Indonesia and Malaysia have both similarities and differences. In terms of similarities, there are three things, namely definition, content/amount as well as

[58] Eleanora, Fransiska Novita, and Andang Sari. "Distribution of Inheritance." 16.

[59] Ghul, Z. Hamid, M. H. Yahya, and A. Abdullah. "Wasiyyah (Islamic will) adoption and the barriers." 8.

[60] Ilhami, Haniah. "Development of the regulation." 561.

[61] Anshori, Abdul Ghofur. "Sources and Legal Principles." 161.

[62] Firdausia, Salsabila. "Hadhanah in The Concept of Compilation." 321.

purpose and benefits. Meanwhile, the difference is that there are three things, namely the recipient of the compulsory will, the source of law and the legal position. Furthermore, in determining the compulsory will, Indonesia refers to *maslaha mursala*, while in Malaysia it refers to the views of Ibn Hazm from the azh-Zhahiri school of law which requires wills to relatives who do not receive inheritance either because they are veiled or obstructed in Islamic inheritance law. In addition to what has been regulated in the regulations of each country, the compulsory will has experienced an expansion in its granting. In Indonesia, in addition to what has been stipulated in the KHI, the designation is given to adoptive parents and adopted children. This compulsory will be also given to non-Muslim heirs, stepchildren, children who are not registered by the authorities and biological children. Malaysia also expanded through the *Fatwa Majlis Kebangsaan*, given to male and female grandchildren from male and female lineage, which previously were only given to male and female grandchildren from male lineage (*Enakmen Wasiat Orang Islam Negeri Selangor*, Malaka and Negeri Sembilan).

References

Abdullah, Mohamad Asmadi. "The Applicability of the Usul Al-Fiqh Principle" Istishab" to the Presumption of Death of a Missing Person in Islamic Law of Succession and Malaysian Law." *IIUMLJ* 18 (2010): 321.

Abdullah, Muhamad Muizz, Abdul Bari Bin Awang, and Nasrul Hisyam Nor Muhamad. "The Mechanisme of Wisayah In Estate Planning: A Literature Review: Mekanisme Wisayah Dalam Perancangan Harta Pusaka: Sorotan Literatur." *Al-Qanatir: International Journal of Islamic Studies* 20, no. 1 (2020): 21-34.

Afkarina, Izzah. "Legal Power of Testament Act as Authentic Deed in The Indonesian and Malaysian Law System." *Indonesian Journal of Law and Islamic Law* 4, no. 2 (2022): 332-367.

Alma'amun, Suhaili, Mohd Khairy Kamarudin, Wan Nadiah Wan Mohd Nasir, Nasrul Hisyam Nor Muhamad, and Riayati Ahmad. "Legislative provisions for waṣiyyah wājibah in Malaysia and Indonesia: to what extent do they differ in practice?." *ISRA International Journal of Islamic Finance* 14, no. 2 (2022): 157-174.

Anderson, James Norman Dalrymple, ed. *Family law in Asia and Africa*. London: Routledge, 2021.

Anshori, Abdul Ghofur. "Sources and Legal Principles of Islamic Inheritance* Dynamics in Indonesia." *Journal Equity of Law and Governance* 2, no. 2 (2022): 157-165.

Arthos, Saed, Muhammad Iqbal, and Sukri Sukri. "Analytical Study on Egyptian Inheritance Law Reform (Faraidh)." *Jurnal Akta* 8, no. 4 (2021): 205-213.

Black, E. Ann, and Gary F. Bell, eds. *Law and legal institutions of Asia: Traditions, adaptations and innovations*. Cambridge: Cambridge university press, 2011.

Bowen, John R. *Islam, law, and equality in Indonesia: An anthropology of public reasoning*. Cambridge: Cambridge University Press, 2003.

Buskens, Léon. "Recent debates on family law reform in Morocco: Islamic law as politics in an emerging public sphere." *Islamic law and society* 10, no. 1 (2003): 70-131.

Carroll, Lucy. "The Pakistan Federal Shariat Court, Section 4 of the Muslim Family Laws Ordinance, and the Orphaned Grandchild." *Islamic Law and Society* 9, no. 1 (2002): 70-82.

Djawas, Mursyid, Khairuddin Hasballah, Soraya Devy, Muntasir A. Kadir, and Yusfriadi Abda. "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law." *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022): 207-219.

Duderija, Adis. "Evolution in the Concept of Sunnah during the First Four Generations of Muslims in Relation to the Development of the Concept of an Authentic Ḥadīth as based on Recent Western Scholarship." *Arab Law Quarterly* 26, no. 4 (2012): 393-437.

Dutton, Yasin. "ʿAmal V. ḥadīth in Islamic Law: The Case of Sadl Al-Yadayn (Holding One's Hands by One's Sides) when Doing the Prayer." *Islamic Law and Society* 3, no. 1 (1996): 13-40.

El Chazli, Karim. "Recent Developments in Egyptian Family and Inheritance Law." *Yearbook of Islamic and Middle Eastern Law Online* 21, no. 1 (2022): 116-122.

Eleanora, Fransiska Novita, and Andang Sari. "Distribution of Inheritance Based on The Principle of Justice According to National Law." *Varia Justicia* 15, no. 1 (2019): 9-17.

Fahmi, Labib. "Hermeneutika Emillio Betti dan Aplikasinya dalam Menafsirkan Sistem Kewarisan 2: 1 pada Surat an-Nisa Ayat 11." *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 2, no. 1 (2018): 143-173.

Faruki, Kemal. "Orphaned Grandchildren in Islamic Succession Law: A Comparison of Modern Muslim Solutions." *Islamic Studies* 4, no. 3 (1965): 253-274.

Firdausia, Salsabila. "Hadhanah in The Concept of Compilation of Islamic Law And Law." *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 20, no. 2 (2020): 317-322.

Ghofur, Abdul, and Sulistiyono Sulistiyono. "Peran ulama dalam legislasi modern hukum Islam." *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 49, no. 2 (2015): 265-297.

Ghul, Z. Hamid, M. H. Yahya, and A. Abdullah. "Wasiyyah (Islamic will) adoption and the barriers in Islamic inheritance distribution among Malaysian Muslims." *International Journal of Humanities Social Sciences and Education* 2, no. 1 (2015): 1-11.

Horowitz, Donald L. "The Qur'an and the common law: Islamic law reform and the theory of legal change." *The American Journal of Comparative Law* 42, no. 2 (1994): 233-293.

Ilhami, Haniah. "Development of the regulation related to obligatory bequest (wasiat wajibah) in Indonesian Islamic inheritance law system." *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 27, no. 3 (2015): 553-565.

Mahmood, Syed Tahir. *Family law reform in the Muslim world*. Delhi: The Indian Law Institute, 1972.

Mousourakis, George. *Roman law and the origins of the civil law tradition*. Berlin: Springer, 2015.

Muhammad Daud, Zakiul Fuady, and Raihanah Azahari. "The wajibah will: Alternative wealth transition for individuals who are prevented from attaining their inheritance." *International Journal of Ethics and Systems* 38, no. 1 (2022): 1-19.

Musa, Aisha Y. "Al-Shāfiʿī, the Ḥadīth, and the Concept of the Duality of Revelation." *Islamic Studies* (2007): 163-197.

Mustarsidin, Ahmad, and Akhmad Khisni. "Pregnancy Married in The Perspective of Four Madzhab and Compilation of Islamic Law (KHI)." *Jurnal Daulat Hukum* 1, no. 3 (2018): 699-704.

Nabilah, Wardatun, Deri Rizal, and Arifki Budia Warman. "Persecutory and Defamation as Barriers to Inheritance (Review of Maqāṣid Shari'ah in a Compilation of Islamic Law)." *Al Hurriyah: Jurnal Hukum Islam* 6, no. 1 (2021): 49-62.

Naim, Ngainun. "Islamic Jurisprudence for Diversity: From Theological-Normative Reason to Progressive Contextual Reasoning." *Al-'Adalah* 15, no. 1 (2019): 51-72.

Noor, Noraini M., and Chan-Hoong Leong. "Multiculturalism in Malaysia and Singapore: contesting models." *International Journal of Intercultural Relations* 37, no. 6 (2013): 714-726.

Noviarni, Dewi. "Kewarisan Dalam Hukum Islam di Indonesia." *'Aainul Haq: Jurnal Hukum Keluarga Islam* 1, no. 1 (2021): 62-75.

Pantamar, Hendrik, and Rahma Amir. "Tinjauan Hukum Islam Terhadap Praktik Kewarisan di Desa Pattangnga Kecamatan Bola Kabupaten Wajo." *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 2, no. 2 (2021): 268-281.

Rahman, Md Habibur, Abu Talib Mohammad Monawer, and Noor Mohammad Osmani. "Wasiyyah Wajibah in Islamic Estate Planning: An Analysis." *Jurnal Islam Dan Masyarakat Kontemporari* 21, no. 3 (2020): 72-86.

Reskiani, Anugrah, Dian Furqani Tenrilawa, Aminuddin Aminuddin, and Rahman Subha. "Reform Methods of Islamic Inheritance Law in Indonesia in Jurisprudence." *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (2022): 39-51.

Suprihatin, Suprihatin, and Nurrohman Nurrohman. "The meeting point of the development of formal Islamic inheritance law In Indonesia with international law." *Ulûmuna: Jurnal Studi Keislaman* 6, no. 2 (2020): 219-235.

Vikør, Knut S. *Between God and the sultan: A history of Islamic law*. Oxford: Oxford University Press, 2005.

von Benda-Beckmannn, Franz, and Keebet von Benda-Beckmannn. "The dynamics of change and continuity in plural legal orders." *The Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006): 1-44.

Welas, Ninuk Tri. "Comparative Study of Development between Islamic Inheritance Law According to Compilation of Islamic Law (KHI) & Faroid Science." *Sultan Agung Notary Law Review* 3, no. 1 (2021): 164-180.

Yusuf, Andi Asdar. "Controversy of Islamic law on the distribution of inheritance to the heirs of different religion." *HUNAFA: Jurnal Studia Islamika* 14, no. 2 (2017): 377-403.

Zaelani, Abdul Qodir, Syamsul Hilal, and Abdul Hanif. "Joint Property Inheritance Distribution Practiced by Community of Bandar Lampung." *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 5, no. 1 (2022).